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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,979	12/30/2003	Geoffrey W. Peters	42P18210	9699

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EXAMINER

MONIKANG, GEORGE C

ART UNIT	PAPER NUMBER
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2615

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,979

Applicant(s)

PETERS ET AL.

Examiner

George C. Monikang

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/30/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 35 recites the limitation "the display". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-7, 16-21, 23-26, 36-45, 50-52 & 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Fraunhofer Institute of Integrated Circuits IIS "AudioID – Automatic Identification / Fingerprinting of Audio." (This reference is cited in IDS filed 12/30/2003)

Re Claim 1, Fraunhofer discloses an apparatus comprising: an acoustic analyzer to identify received ambient audio (page 2); and a content parser to select content associated with the identified audio for presentation of the content to a user (page 1).

Re Claim 2, Fraunhofer discloses the apparatus according to claim 1, further comprising a microphone to receive the ambient audio (page 1, fig. 1).

Re Claim 4, Fraunhofer discloses the apparatus according to claim 1, wherein the acoustic analyzer is to identify the received ambient audio by comparing it to audio stored in a database (page 1, fig. 1).

Re Claim 5, Fraunhofer discloses the apparatus according to claim 1, wherein the acoustic analyzer is to provide a fingerprint for the received ambient audio and to compare the fingerprint to fingerprints stored in a database (page 2).

Re Claim 6, Fraunhofer discloses the apparatus according to claim 1, wherein the content parser identifies content entries in a database corresponding to the identified audio (page 1).

Re Claim 7, Fraunhofer discloses the apparatus according to claim 1, discloses wherein the content is audio (page 1; page 2).

Re Claim 16, Fraunhofer discloses the apparatus according to claim 1, wherein the content is text (page 1).

Re Claim 17, Fraunhofer discloses the apparatus according to claim 1, wherein the user listens to the ambient audio and receives the presentation of the content simultaneously (page 1).

Re Claim 18, Fraunhofer discloses the apparatus according to claim 17, wherein the presentation of the content is synchronized with the ambient audio (page 3).

Re Claim 19, Fraunhofer discloses the apparatus according to claim 1, wherein the content is entertainment content (page 1).

Claim 20 has been analyzed and rejected according to claim 1.

Claim 21 has been analyzed and rejected according to claim 2.

Claim 23 has been analyzed and rejected according to claim 4.
Claim 24 has been analyzed and rejected according to claim 5.
Claim 25 has been analyzed and rejected according to claim 6.
Claim 26 has been analyzed and rejected according to claim 7.
Claim 36 has been analyzed and rejected according to claim 16.
Claim 37 has been analyzed and rejected according to claims 4 & 6.
Claim 38 has been analyzed and rejected according to claim 17.
Claim 39 has been analyzed and rejected according to claim 18.
Claim 40 has been analyzed and rejected according to claim 19.
Claim 41 has been analyzed and rejected according to claim 1.
Claim 42 has been analyzed and rejected according to claim 4.
Claim 43 has been analyzed and rejected according to claim 5.
Claim 44 has been analyzed and rejected according to claim 6.
Claim 45 has been analyzed and rejected according to claim 7.
Claim 50 has been analyzed and rejected according to claim 17.
Claim 51 has been analyzed and rejected according to claim 18.
Claim 52 has been analyzed and rejected according to claim 19.
Claim 54 has been analyzed and rejected according to claim 7.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fraunhofer Institute of Integrated Circuits IIS "AudioID – Automatic Identification / Fingerprinting of Audio."

Re Claim 3, which further recites, "Wherein the microphone is wirelessly coupled to the acoustic analyzer." Fraunhofer does not explicitly disclose the microphone being wireless as claimed. Official notice is taken that both the concept and advantages of providing a wireless microphone is well known in the art. It would have been obvious to use a wireless microphone since it is commonly used for mobility.

Claim 22 has been analyzed and rejected according to claim 3.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 8-14, 27-33, 46-49 & 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraunhofer Institute of Integrated Circuits IIS "AudioID – Automatic Identification / Fingerprinting of Audio." as applied to claim 1 above, in view of Bates et al, US Patent 6,760,635 B1.

Re Claim 8, Fraunhofer discloses the apparatus according to claim 1, but fails to disclose wherein a user is able to select at least one type of the content for presentation. However, Bates et al does (col. 4, lines 17-24).

Taking the combined teachings of Fraunhofer and Bates et al as a whole, one skilled in the art would have found it obvious to modify the apparatus according to Fraunhofer with wherein a user is able to select at least one type of the content for presentation as taught in Bates et al (col. 4, lines 17-24) so that the apparatus can be more user friendly.

Claim 9 has been analyzed and rejected according to claim 8.

Re Claim 10, the combined teachings of Fraunhofer and Bates et al disclose the apparatus according to claim 9, wherein the pre-selection may be different for different audio (Bates et al, col. 4, lines 17-30).

Re Claim 11, the combined teachings of Fraunhofer and Bates et al disclose the apparatus according to claim 1, wherein the selected content may be presented on a display (Bates et al, col. 4, lines 17-20).

Re Claim 12, the combined teachings of Fraunhofer and Bates et al disclose the apparatus according to claim 1, wherein the apparatus is a computer (Bates et al, col. 4, lines 13-17).

Re Claim 13, the combined teachings of Fraunhofer and Bates et al disclose the apparatus according to claim 12, wherein the computer is local to where the ambient audio may be listened to by a user and to where the content may be received by a user (Bates et al, col. 4 lines 13-17).

Re Claim 14, which further recites, "Wherein the computer is remote from where the ambient audio may be listened to by a user and from where the content may be received by a user." Fraunhofer and Bates et al do not explicitly disclose the computer being remote from where the ambient audio may be listened as claimed. Official notice is taken that both the concept and advantages of a computer being remote from where the ambient audio may be listened is well known in the art. It would have been obvious to use a computer being remote from where the ambient audio may be listened to provide a more dynamic apparatus.

Claim 27 has been analyzed and rejected according to claim 8.

Claim 28 has been analyzed and rejected according to claim 8.

Claim 29 has been analyzed and rejected according to claim 10.

Claim 30 has been analyzed and rejected according to claim 11.

Claim 31 has been analyzed and rejected according to claim 12.

Claim 32 has been analyzed and rejected according to claim 13.

Claim 33 has been analyzed and rejected according to claim 14.

Claim 46 has been analyzed and rejected according to claim 8.

Claim 47 has been analyzed and rejected according to claim 8.

Claim 48 has been analyzed and rejected according to claim 10.

Claim 49 has been analyzed and rejected according to claim 11.

Claim 53 has been analyzed and rejected according to claim 11.

Claims 15 & 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraunhofer Institute of Integrated Circuits IIS "AudioID – Automatic Identification / Fingerprinting of Audio." as applied to claim 1 above, in view of Han, US Patent 6,591,118 B1.

Re Claim 15, Fraunhofer discloses the apparatus according to claim 1, but fails to disclose wherein the content is presented remotely from the ambient audio. However, Han does (fig. 1: 116).

Taking the combined teachings of Fraunhofer and Han as a whole, one skilled in the art would have found it obvious to modify the apparatus according to Fraunhofer with wherein the content is presented remotely from the ambient audio as taught in Han (fig. 1: 116) so that the apparatus can be more dynamic.

Claim 34 has been analyzed and rejected according to claim 15.

Re Claim 35, Fraunhofer discloses the system according to claim 20, but fails to disclose wherein the display is coupled to the content parser. However, Han does (fig. 1: 116).

Taking the combined teachings of Fraunhofer and Han as a whole, one skilled in the art would have found it obvious to modify the system according to Fraunhofer with wherein the display is coupled to the content parser as taught in Han (fig. 1: 116) so that the system can be more dynamic.

The combined teachings of Fraunhofer and Han also fail to disclose the display being wirelessly coupled to the content parser. Official notice is taken that both the

concept and advantages of providing a wireless display is well known in the art. It would have been obvious to use a wireless display since it is light and portable.

Contact


Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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5/27/07


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